

Bereskin & Parr
INTELLECTUAL PROPERTY LAW

April 19, 2004

Scott R. Pundsack B.A.Sc. (Civil Eng.), LL.B.
416 957 1698 spundsack@bereskinparr.com

Our Reference: 4320-347

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Re: Petition and Statement Under 37 CFR 1.136(a)(3)
Patent Application No. 09/916,247
For: CHEMICAL CLEANING BACKWASH FOR NORMALLY IMMERSSED
MEMBRANES
Filing Date: July 30, 2001
Applicant: Pierre Côté et al.

Enclosed is a Petition, with fee under 37 CFR 1.17(h), to have an Amendment and other documents, originally filed on January 22, 2004 and attached to the Petition, be recognized as having been filed on that date and entered. As described in the Petition, the Amendment was previously filed on January 22, 2004, which is within three months of the last Office Action dated October 22, 2003. However, we have been advised by the Examiner that the Amendment and other documents filed on that day are not in the file and that the file will soon come up for abandonment if the documents are not located and entered in the file. The Examiner further advised us that this Petition was the appropriate means for having the documents deemed received on January 22, 2004 so that they may be entered and the file not held abandoned.

As a further precaution, Applicants are also filing herewith a second copy of the Amendment. The Applicants, under the provisions of 37 CFR 1.136(a)(3), request and authorize the Commissioner to treat this second copy of the Amendment and any other concurrent or future reply requiring a petition for an extension of time for its timely submission as incorporating a petition for an extension of time for the appropriate length of time and to charge any and all required fees, fees under 37 CFR 1.17, or all required extension of time fees to our deposit account no. 02-2095. The Applicants submit, however, that no petition for late filing is required since an Amendment was filed on January 22, 2004.

Please send all correspondence to the Toronto office:

Scotia Plaza, 40 King St. West, 40th Floor,
Toronto, Ontario, Canada M5H 3Y2
Tel: 416.364.7311 Fax: 416.361.13982000 Argentia Rd., Plaza 4, Ste. 430,
Mississauga, Ontario, Canada L5N 1W1
Tel: 905.812.3600 Fax: 905.814.0031Waterloo Technology Campus, 408 Albert St., Ste. 2,
Waterloo, Ontario, Canada N2L 3V3
Tel: 519.783.3210 Fax: 519.783.3211www.bereskinparr.com

- 2 -

The Applicants submit that the present Petition should be granted. If granting of this Petition, or location of the original Amendment filed, results in duplicate Amendments on file, the Applicants acknowledge that the Examiner may choose not to enter one of the Amendments, provided at least one Amendment remains on file as deemed or considered as having been filed on January 22, 2004.

Respectfully submitted,

COTE et al.

Scott Pundsack

Scott R. Pundsack

Reg'n No. 47,330

Encl.

/js

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INTELLECTUAL PROPERTY LAW

Appl. No : 09/916,247 Confirmation No.: 9131
Applicant : COTE et al.
Filed : July 30, 2001
Title : CHEMICAL CLEANING BACKWASH FOR NORMALLY IMMersed
MEMBRANES
TC./A.U. : 1723
Examiner : MENON, Krishnan S.
Docket No. : 4320-347
Customer No. : 001059

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APR 19 2004

Honorable Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450

April 19, 2004

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PETITION

Sir,

The Applicants hereby petition that the attached Amendment, Terminal Disclaimer, Assignment, Power of Attorney and Statement Under 37 CFR 3.73(b) be deemed or recognized as having been filed on January 22, 2004 and that they be appropriately filed or entered. The Amendment and other documents were originally filed on January 22, 2004, as indicated by the attached copy of a postcard indicating their receipt in the OIPE. Also attached is a photocopy of a returned check which accompanied the Amendment as further evidence that the documents, as indicated on the postcard, were received by the U.S.P.T.O. and that all required fees have been paid.

The Applicants have been informed by the Examiner that the attached documents have not been entered in the appropriate file. If at least the Amendment is not deemed or recognized as having been received on January 22, 2004, the Applicants will be held to not have responded to the latest Office Action, mailed October 22, 2004, within the period for reply. The Applicants submit that such a result would be unfair to the Applicants and that this Petition shows good and sufficient reason why the attached documents should be deemed or otherwise considered to have been filed and received as of January 22, 2004.

Respectfully submitted,

COTE et al.

By Scott R. Pundsack
Scott R. Pundsack
Reg. No. 47,330
Tel: (416) 957-1698

Please send all correspondence to the Toronto office:

Scotia Plaza, 40 King St. West, 40th Floor,
Toronto, Ontario, Canada M5H 3Y2
Tel: 416.364.7311 Fax: 416.361.1398

2000 Argentia Rd., Plaza 4, Ste. 430,
Mississauga, Ontario, Canada L5N 1W1
Tel: 905.812.3600 Fax: 905.814.0031

Waterloo Technology Campus, 408 Albert St., Ste. 2,
Waterloo, Ontario, Canada N2L 3V3
Tel: 519.783.3210 Fax: 519.783.3211

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THE PATENT AND TRADEMARK OFFICE ACKNOWLEDGES AND
HAS STAMPED HEREON THE DATE OF RECEIPT OF THE
ITEMS CHECKED BELOW:

DATE: January 21, 2004

Applicant: COTE et al

File No. 4320-347

Title of Invention: Chemical Cleaning Backwash for Normally...

Serial No. 09/916,247

Filing Date: July 30, 2001

Patent No.: n/a

Due Date: Jan 22, 2004

Method of Payment: cheque

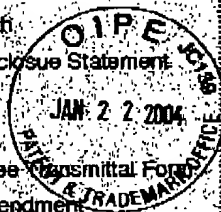
Amount: \$150.00

APPLICATION PAPERS

- ☐ Abstract
- ☐ Application Data Sheet
- ☐ Claims (No. of Claims _____)
- ☐ Continued Prosecution Application (CPA) Request Transmittal
- ☒ Fee Transmittal in duplicate
- ☐ Formal/ Informal Drawings (_____ Sheets)
- ☐ New Design Patent Appn. Transmittal
- ☐ New Plant Patent Appn. Transmittal
- ☐ New Utility Patent Appn. Transmittal
- ☐ Provisional Appn. for Patent Cover Sheet
- ☐ Specification (No. of Pages _____)
- ☐ Transmittal Concerning Filing Under 35 U.S.C. 371

OTHER PAPERS

- ☒ Assignment
- ☐ Declaration/Oath
- ☐ Information Disclosure Statement
- ☐ Issue Fee
- ☐ Letter
- ☐ Maintenance Fee Transmittal Form
- ☐ Preliminary Amendment
- ☐ Priority Document
- ☐ Request for Ext. of Time
- ☒ Resp. to Office Action Dated Oct 22, 2003
- ☒ Transmittal Form
- ☒ Terminal Disclaimer MR
- ☒ Power of Attorney



STAMP
HERE

BERESKIN & PARR
30 KING ST. W. SUITE 400 PLAZA 40TH FLOOR
TORONTO, ONTARIO, M5H 3V2

U.S. DOLLAR ACCOUNT
100-1000

5643

January 21, 2004

PAY TO THE ORDER OF U.S. Commissioner of Patents & Trademarks \$ 150.00

One Hundred Fifty

Canada Trust
TORONTO - DOWNTOWN CENTRE BRANCH
55 KING ST. W. 402-404 ST.
TORONTO, ONT. M5H 1A2

RE 4320-557 Serial No. 09/46,247

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14810000 FEDNCS2
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PATENT AND TRADEMARK OFFICE
13-10-0001
01-27-0004
FOR CREDIT TO THE
U.S. TREASURY

APR 19 2004
PTO/SB/21 (09-03)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/916,247	
	Filing Date	July 30, 2001	
	First Named Inventor	COTE	
	Art Unit	1723	
	Examiner Name	MENON, Krishnan S.	
Total Number of Pages in This Submission	34	Attorney Docket Number	4320-347

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ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form (2 pages) <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment / Reply (4 pages) <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition (20 pages) <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s)	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Letter to Commissioner for Patents (2 pages)
Remarks		2nd attempted transmission
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm or Individual name	Scott R. Pundsack Registration No. 47,330 BERESKIN & PARR	
Signature	<i>Scott Pundsack</i>	
Date	April 19, 2004	

CERTIFICATE OF MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or printed name	Scott R. Pundsack		
Signature	<i>Scott Pundsack</i>	Date	April 19, 2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.